

921 KAR 2:046. Adverse action; conditions.

RELATES TO: KRS 205.010, 205.200, 205.245, 605.120(5), 42 U.S.C. 601-619

STATUTORY AUTHORITY: KRS 194A.050(1), 205.200(2), 605.120(6)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the secretary to promulgate administrative regulations necessary to implement programs mandated by federal law or to qualify for the receipt of federal funds and necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs. KRS Chapter 205 requires the Cabinet for Health and Family Services to administer public assistance programs including the Kentucky Transitional Assistance Program (K-TAP) and mandatory and optional supplementation of persons who are aged, blind, and have a disability. KRS 205.200(2) requires the cabinet to promulgate administrative regulations concerning the conditions of eligibility for public assistance, in conformity with the Social Security Act, 42 U.S.C. 601-619 and federal regulations. KRS 605.120(6) requires the Cabinet for Health and Family Services to promulgate administrative regulations to establish uniform conditions and requirements for kinship care. This administrative regulation establishes the conditions under which an application is denied or assistance is decreased or discontinued and advance notice requirements.

Section 1. Definitions. (1) "Applicant" means an individual applying for:

- (a) State Supplementation Program (SSP) benefits;
- (b) K-TAP benefits; or
- (c) Kinship Care Program benefits.

(2) "Application" means the process set forth in:

- (a) 921 KAR 2:035 for K-TAP or SSP; or
- (b) 922 KAR 1:130 for Kinship Care Program.

(3) "Recipient" means a:

- (a) Person who is aged, blind, or has a disability receiving SSP benefits;
- (b) Member of a K-TAP assistance group as defined in 921 KAR 2:016; or
- (c) Member of a Kinship Care Program assistance group as defined in 922 KAR 1:130.

Section 2. Reasons for Adverse Action. (1) An application shall be denied if:

(a) Income or resources exceed the standards for the specific assistance program as set forth in 921 KAR 2:016, 921 KAR 2:015, or 922 KAR 1:130;

(b) The applicant does not meet technical eligibility criteria or fails to comply with a technical requirement as set forth in 921 KAR 2:006, 921 KAR 2:015, 921 KAR 2:370, or 922 KAR 1:130;

(c) The applicant fails to provide sufficient information or clarify conflicting information necessary for a determination of eligibility despite receipt of written notice detailing the additional information needed for a determination;

(d) The applicant fails to complete an interview;

(e) The applicant requests in writing voluntary withdrawal of application;

(f) Department staff is unable to locate the applicant; or

(g) The applicant is no longer domiciled in Kentucky.

(2) Assistance shall be discontinued or decreased if:

(a) Income or resources of the recipient increase or deductions decrease resulting in reduced or discontinued benefits as set forth in 921 KAR 2:016, 921 KAR 2:015, or 922 KAR 1:130;

(b) The recipient does not meet technical eligibility criteria or fails to comply with a technical

requirement as set forth in 921 KAR 2:006, 921 KAR 2:015, 921 KAR 2:370, or 922 KAR 1:130;

(c) The recipient fails to provide sufficient information or clarify conflicting information necessary for a redetermination of eligibility despite receipt of written notice detailing the additional information needed for a redetermination;

(d) The recipient fails to complete an interview;

(e) The cabinet is recovering K-TAP or Kinship Care Program overpayments through recoupment;

(f) Department staff is unable to locate recipient;

(g) The recipient is no longer domiciled in Kentucky; or

(h) Change in program policy adversely affects the recipient.

Section 3. Notification of Denial of an Application. (1) If an application is denied, the applicant shall be given a notice of such action.

(2) The notice pursuant to subsection (1) of this section shall include:

(a) The reason for the denial;

(b) Citation of the applicable state administrative regulation; and

(c) Information regarding:

1. The opportunity to confer with the worker; and

2. The right to a fair hearing as provided by 921 KAR 2:055.

Section 4. Advance Notice of a Decrease or Discontinuance. (1) The recipient shall be given ten (10) days advance notice of the proposed action if a change in circumstances indicates:

(a) A money payment shall be:

1. Reduced;

2. Suspended; or

3. Discontinued; or

(b) An individual shall be removed from the K-TAP or Kinship Care Program grant, even if the grant increases.

(2) The ten (10) days advance notice of the proposed action shall:

(a) Be given in accordance with Section 3 of this administrative regulation;

(b) Explain the reason for the proposed action;

(c) Cite the applicable state administrative regulation; and

(d) Extend the opportunity to confer with the worker or to request a fair hearing pursuant to 921 KAR 2:055.

(3) A hearing request received during the advance notice period may result in delay of the decrease or discontinuance pending the hearing officer's decision, as provided in 921 KAR 2:055.

Section 5. Exceptions to the Advance Notice Requirement. An advance notice of proposed action shall not be required, but written notice of action taken shall be given in accordance with Section 3 of this administrative regulation, if:

(1) A decrease or discontinuance results from:

(a) Information reported by the recipient, if the recipient signs a waiver of the notice requirement indicating understanding of the consequences;

(b) A clear written statement, signed by a recipient that the recipient no longer wishes to receive assistance from the department;

(c) Factual information received by the department that the:

1. State supplementation recipient has died; or

2. K-TAP payee has died and a new payee is unavailable;

(d) Whereabouts of a recipient are unknown and mail addressed to the recipient is returned indicating no known forwarding address; however, a returned check shall be made available if whereabouts of the recipient becomes known during the payment period covered by the returned check;

(e) Establishment by the agency that assistance has been accepted in another state;

(f) Removal from the home of a K-TAP or Kinship Care Program child by judicial order or voluntary placement in foster care by his legal guardian;

(g) The person who is aged, blind, or has a disability and is an SSP recipient, enters a nursing facility resulting in vendor payment status;

(h) The recipient enters a:

1. Penal institution;

2. Tuberculosis hospital, if under sixty-five (65); or

3. Psychiatric hospital, if between twenty-one (21) and sixty-five (65); or

(2) A recipient is granted a special allowance, or time limited assistance, that is terminated at the end of a specified period. (40 Ky.R. 468; 850; eff. 10-16-2013; 42 Ky.R. 592; eff. 11-18-2015.)